

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

GARY LEE ROLLINS,

Petitioner,

v.

Civil Action No. 2:22-cv-00585

DONNIE AMES,

Respondent.

ORDER

The petitioner, Gary Lee Rollins, by counsel, Jeremy B. Cooper, has on April 22, 2025, filed Petitioner's Rule 59(e) Motion To Alter Or Amend Judgment in which the petitioner moves the court to amend the March 25, 2025, judgment in this case and asks the court "to grant relief on the merits, or to issue a certificate of appealability pursuant to Rule 11(a) of the Rules Governing Section 2254 and 2255 Cases." The petitioner asserts that relief is due under Rule 59(e) in order to correct a clear error of law or prevent manifest injustice, as set forth in Ingle v. Yelton, 439 F.3d 191, 197 (4th Cir. 2006).

The motion is not accompanied by a memorandum of law, and rests on the following statement in the motion: "The Petitioner contends that the question of procedural default, and whether the Respondent properly raised that defense, substantially implicates

whether the Petitioner can demonstrate the denial of a constitutional right. Moreover, the question of whether it was appropriate to consider a matter raised by the Respondent in a reply, and this Court's application of *De Simone v. VSL Pharms, Inc.*, 36 F.4th 518 (4th Cir. 2022) to the inexact procedural analog of the instant case, is not so clear cut as to escape a plausible difference of opinion among reasonable jurists."

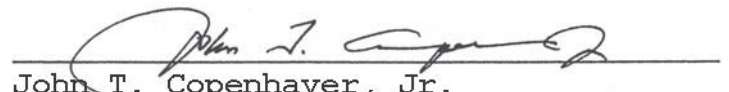
The court thoroughly dealt with the question of procedural default in the memorandum opinion and the accompanying judgment order filed on March 25, 2025, and finds no adequate reason meriting an amendment of its judgment inasmuch as there is neither a clear error of law nor manifest injustice shown.

The court further finds, as also set forth in the court's judgment order filed on March 25, 2025, denying a certificate of appealability, that the petitioner has failed to make a substantial showing of the denial of a constitutional right.

Accordingly, the Rule 59(e) motion is denied.

The Clerk is directed to transmit copies of this order to all counsel of record and any unrepresented parties.

ENTER: May 7, 2025


John T. Copenhaver, Jr.
Senior United States District Judge